

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JAMES MCGANN,

Plaintiff,

v.

CITY OF SAUSALITO, et al.,

Defendants.

Case No. [22-cv-02042-EMC](#)

**ORDER GRANTING PLAINTIFF'S
APPLICATION TO PROCEED *IN
FORMA PAUPERIS*; DENYING
PLAINTIFF'S MOTION FOR A
TEMPORARY RESTRAINING
ORDER; AND ORDER TO SHOW
CAUSE**

Docket Nos. 2-3

Currently pending before the Court is Plaintiff James McGann's application to proceed *in forma pauperis* ("IFP") and motion for a temporary restraining order ("TRO").

Based on the financial affidavit filed by Mr. McGann, the Court **GRANTS** the motion to proceed IFP. The Court also orders the U.S. Marshals' Office to serve this order, the summons and complaint on Defendants because it appears Mr. McGann may have a viable claim for relief. He alleges, in effect, that he has been denied the ability to stay at the Marinship Park encampment and has nowhere else to go. *See generally Martin v. City of Boise*, 920 F.3d 584 (9th Cir. 2019). This ruling, however, does not preclude Defendants from filing, *e.g.*, a 12(b)(6) motion to dismiss Mr. McGann's case.

Turning to the TRO motion, it appears that the motion is moot. The City has provided evidence that Mr. McGann has found alternative housing. *See* Gregory Decl. ¶ 7 (testifying that Mr. McGann leased a room on March 31, 2022, and that Mr. McGann's aunt confirmed on April 8, 2022, that he was currently housed). Accordingly, the motion is **DENIED** but without prejudice.

1 Finally, the Court notes that, in his complaint, the only relief Mr. McGann sought was that
2 he “be allowed to camp at Marinship Park.” Compl. ¶ V. Now that Mr. McGann has found
3 alternative housing, it appears that his case – in its entirety – is moot. Accordingly, the Court
4 hereby **ORDERS** Mr. McGann **TO SHOW CAUSE** as to why his case should not be dismissed
5 based on mootness grounds. Mr. McGann shall file a response by **May 2, 2022**. The Court
6 forewarns Mr. McGann that, if he fails to file a timely response to this order to show cause, then
7 the Court shall automatically instruct the Clerk of the Court to enter a final judgment and close the
8 file in this case.

9 This order disposes of Docket Nos. 2 and 3.

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11 **IT IS SO ORDERED.**

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13 Dated: April 15, 2022

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EDWARD M. CHEN
United States District Judge